

Nevada Administrative Code (N.A.C. 408)

**Utilities Adjustment & Relocation
Encroachment Permits, Locked Gates,
Mailboxes
Roadside Parks & Safety Rest Areas
Informational & Directional Signs**

CHAPTER 408

HIGHWAYS AND ROADS

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INSTALLATION AND RELOCATION OF FACILITIES AND ENCROACHMENTS

General Provisions

NAC 408.010 Definitions. As used in NAC 408.013 to 408.557, inclusive, unless the context otherwise requires, the words and terms defined in NAC 408.013 to 408.290, inclusive, have the meanings ascribed to them in those sections.

(Supplied in codification; A by Dep't of Transportation, eff. 1-6-95)

NAC 408.013 "Authorization" defined. "Authorization" means any written authority granted by the department to a utility to begin any phase of a project.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.015 "Backfill" defined. "Backfill" means the material used to replace or the act of replacing material:

1. During construction; or
2. Adjacent to a structure or around and over a pipe or conduit.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.033 "Betterment" defined. "Betterment" means any improvement of a utility's facility being adjusted or relocated which is not attributable to the project of the department and is made primarily for the benefit and at the election of the utility or owner.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.055 "Casing" defined. "Casing" means a pipe enclosing a carrier.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.057 "Clear recovery area" defined. "Clear recovery area" means that area of the roadside within the right of way of the highway which must be kept clear of obstructions which are above the ground or mounted on the ground to allow a person to regain control of the motor vehicle after it leaves the highway because the driver lost control of the vehicle.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.070 "Conduit" defined. "Conduit" means an enclosed tubular runway for protecting wires or cables.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]—(NAC A by Dep't of Transportation, eff. 1-6-95)

NAC 408.083 "Cost of relocation" defined. "Cost of relocation" has the meaning ascribed to it in NRS 408.407.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.087 "Cost of removal" defined. "Cost of removal" means the money spent to remove a facility, including the cost of demolishing, dismantling, removing, transporting or otherwise disposing of that facility and of cleaning the site so as to leave it in a safe, neat and presentable condition.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.090 "Department" defined. "Department" means the department of transportation.

(Supplied in codification)

NAC 408.097 "Direct costs" defined. "Direct costs" means those costs which are readily identifiable with a specific job or work order, including wages, materials and equipment.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.103 "District engineer" defined. "District engineer" has the meaning ascribed to it in NAC 408.708.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.117 "Encroachment" defined. "Encroachment" has the meaning ascribed to it in NRS 408.050.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.123 "Facility" defined. "Facility" means any property or improvement to the property of a utility which is used to supply telegraph, telephone, electric power and light, gas, water, sewer or any other service to members of the public.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.145 "Freeway" defined. "Freeway" has the meaning ascribed to it in NRS 408.060.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.175 "Highway" defined. "Highway" has the meaning ascribed to it in NRS 408.070.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.177 "Indirect costs" defined. "Indirect costs" means those costs which are not readily identifiable with a specific job or work order, including indirect labor, social security taxes, insurance, store's expenses and general expenses for the maintenance of the office and support services.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.180 "Intersection" defined. "Intersection" means the crossing of two highways either at a grade or in conjunction with an interchange.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.190 "Median" defined. "Median" means the portion of a divided highway separating the traveled ways for traffic moving in opposite directions.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.200 "Occupancy permit" defined. "Occupancy permit" means an agreement in which the director, pursuant to NRS 408.423, authorizes and approves the use by a utility of a specified portion of a highway or right of way.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.215 "Pipe" defined. "Pipe" means a tubular product made as a production item for sale as such. Cylinders formed from plate in the course of the fabrication of auxiliary equipment are not pipe.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.217 "Project" defined. "Project" means any construction or reconstruction of an improvement which is completed pursuant to the authorization of the department.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.220 "Reconstruction" defined. "Reconstruction" means the construction of a highway or of its parts to a degree that new or substantially improved traffic service is provided and significant geometric or structural improvements are made.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.223 "Relocation" defined. "Relocation" means the adjustment of a utility's facility to accommodate a project of the department. The term includes:

1. The removal and reinstallation of the facility, including any necessary temporary facilities;
2. The purchase of any necessary right of way for the new location;
3. The moving, rearranging or changing of an existing facility, including the taking of any necessary safety and protective measures; and
4. The construction of the most economical replacement facility which is equal in utility to the existing facility and necessary for the continuous operation of the utility, the containment of the costs of a project or the sequence of the construction of the project by the department.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.225 "Right of way" defined. "Right of way" has the meaning ascribed to it in NRS 408.080.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.240 "Roadside" defined. "Roadside" means:

1. The area adjoining the outer edge of the roadway; or
2. The extensive area between the roadways of a divided highway.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.245 "Roadway" defined. "Roadway" means the portion of a highway for vehicular use, including the shoulders and the portion of the highway within the limits of any construction.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.247 "Salvage value" defined. "Salvage value" means:

1. The money received from the sale of a utility's property because of and at the expense of a project; or
2. The value of the recovered material which is charged to the account of the utility if the material is retained for reuse.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.250 "Shoulder" defined. "Shoulder" means the portion of the roadway contiguous with the traveled way for the accommodation of stopped vehicles, emergency use and the lateral support of the base and surface.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.265 "Traveled way" defined. "Traveled way" means the portion of the roadway for the movement of vehicles, exclusive of the shoulders and auxiliary lanes.

[Dep't of Highways, Utility Policy Manual part Ch. 3, eff. 3-19-77]

NAC 408.290 "Utility" defined. "Utility" has the meaning ascribed to it in NRS 408.407.

[Dep't of Highways, Utility Policy Manual Ch. 2 part § I, eff. 3-19-77]

Reimbursement for Costs of Relocating Facilities

NAC 408.303 Date for eligibility for reimbursement. The date of an authorization establishes the date on and after which a utility becomes eligible for reimbursement of the costs incurred pursuant to the authorized phase of the work described in the authorization.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.307 Conditions for use of money received from state or Federal Government.

1. Money which is received from the state or Federal Government for projects and administered by the department may be used to reimburse a utility for the costs of relocating its facility, including any preliminary engineering services required by the department's project, if:

(a) The utility has a right of occupancy in its existing location because it holds the fee, an easement or any other interest in real property which is compensable under eminent domain;

(b) The utility occupies publicly owned lands which have not or will not be purchased by the department, including public roads or street rights of way, pursuant to an agreement with a city, county or state agency if money is available for relocation;

(c) The utility is owned by a public agency or political subdivision of the state and occupies publicly owned land, including public roads and street rights of way, and is not required by state law or agreement to relocate at its expense if the facility is not located pursuant to provisions of NRS 408.423;

(d) The utility occupies private property and has a prescriptive easement for that property;

(e) The utility occupies private property with the knowledge and consent of the owner of the property pursuant to a license or other form of consent;

(f) For a project of a local government administered by the department for highways which is not owned or maintained by the department, any available federal money may be used for the cost of relocation occupying local streets and roads pursuant to a franchise agreement or any other agreement between a local government and the utility if:

(1) The agreement specifically provides for appropriate pro-rata participation by any available federal money; and

(2) The utility furnishes to the department a copy of its agreement for reimbursement; or

(g) The utility occupies a right of way for a state highway and the occupancy was established pursuant to NRS, a franchise agreement or other agreement before the highway became a state highway.

2. A utility which claims a right of occupancy pursuant to:

(a) Paragraph (a) of subsection 1, must submit to the department proof of its right of occupancy.

(b) Paragraph (b) of subsection 1, must furnish proof to the department of the agreement with a local government to occupy the publicly owned land.

(c) Paragraph (d) of subsection 1, must submit to the department a statement signed by an officer of the utility under penalty of perjury declaring its prescriptive easement.

(d) Paragraph (e) of subsection 1, must furnish proof to the department of the owner's permission to occupy the privately owned land.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.309 Reimbursement for facility in place when highway became state highway.

1. A utility may be reimbursed for the costs of relocation if the facility was in place when the highway became a state highway. The reimbursement must include the costs related to any subsequent relocation or betterment of the original facility.

2. The costs related to any addition or betterment to the original facility are not eligible for reimbursement.

3. A claim for reimbursement must include a statement signed by an officer of the utility under penalty of perjury that the information set forth in the claim is accurate and complete and:

(a) Proof that the utility's facility was in place on or before the date the highway became a state highway;

(b) Proof that the facility was located pursuant to NRS, a franchise agreement or other agreement with the appropriate city or county before the highway became a state highway; or

(c) A copy of any agreement referred to in responding to paragraph (b).

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.311 Restrictions on use of money received from state or Federal Government. Money received from the state or Federal Government and administered by the department may not be used to reimburse a utility for the costs of relocation if the utility occupies:

1. A highway or right of way for a highway granted pursuant to NRS 408.210 or an occupancy permit;

2. A highway, street or road pursuant to a franchise agreement or any other agreement with a local government which requires the utility to relocate because a project is funded solely with money received from the state; or

3. A highway, street or road pursuant to a franchise agreement or any other agreement with a local government and the local government requires the utility to relocate its facility at the utility's expense even though the remainder of the project is administered by the department.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.313 Installation of facility to accommodate project of department.

1. If the installation of a utility's facility which crosses or otherwise occupies the proposed right of way of a project of the department has begun or is scheduled to begin before the right of way is purchased or controlled by the department, each utility shall, if possible, install the facility to accommodate the schedule of the project in order to prevent additional adjustment or relocation of the facility.

2. Money which is received from the state or Federal Government for projects and administered by the department may be used for any additional costs incurred by the utility if the costs are:

(a) Solely attributable to, and in accommodation of, the project; and

(b) Incurred after the utility received authorization from the department for the additional work.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.317 Engineering activities relating to relocation of facility eligible for reimbursement.

1. Preliminary engineering activities relating to the relocation of a utility's facility which is eligible for reimbursement may be carried out by:

(a) The utility's engineers;

(b) An engineering consultant chosen by the utility, pursuant to a written contract administered by the utility, if the utility obtains the prior written approval of the department;

(c) An engineering consultant, chosen by the department, at the request of and in consultation with the utility, if the department administers the contract; or

(d) The department, if the utility requests the department to perform the engineering activities and the department determines that it can adequately perform the work.

2. If a utility does not have a sufficient number of qualified employees to carry out the purchase of the right of way, engineering or any other work relating to the relocation of its facility, any money which is received from the state or Federal Government for the project and administered by the department may be used to reimburse the utility for the money paid to engineers, architects and any other persons for

engineering and other related services if the money for reimbursement is not based on a percentage of the cost of the relocation.

3. The utility and its engineering consultant shall enter into a written contract concerning the services to be provided and the fees and arrangements for those services. Money received from the state or Federal Government for projects may be used to pay the reasonable costs of those services provided pursuant to a written continuing contract if the work is performed regularly for the utility.

4. If the utility wishes to obtain the engineering services pursuant to a written continuing contract, it must first submit to the department:

(a) The appropriate justification and information concerning the fees for those services; and

(b) A copy of the contract.

5. If federal money is available for the project, the department will obtain the written approval from the Federal Highway Administration for any contract which is expected to exceed \$10,000.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.319 Reimbursement for costs relating to purchase of replacement right of way.

1. Except as otherwise provided in this subsection, money which is received from the state or Federal Government for projects and administered by the department may be used to reimburse a utility for the costs to purchase a replacement right of way for the relocation of its facility if:

(a) The utility has a right of occupancy in its existing location which entitles it to receive reimbursement from the department for its cost of relocation; and

(b) The purchase of the right of way is required to accommodate a facility which must be relocated because of a highway project.

The money must not be used for reimbursement if there is a charge to the project for that portion of the utility's existing right of way which will be transferred to the department for establishing a highway.

2. If the utility does not have a sufficient number of qualified employees to carry out the purchase of a replacement right of way, it may request that the department purchase the replacement right of way on its behalf if the utility provides the department with the requirements for the right of way.

3. The department will, if possible, purchase the utility's replacement right of way when it purchases its own right of way.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.321 Compensation for facility taken out of service. If a utility's facility is located on a project of the department, and it is not necessary to adjust or replace the facility on the project because the facility will be taken out of service, any taking of or damage to that facility, including the disposal or removal of that facility from the project, may be compensated with money which is received from the state or Federal Government for the projects and administered by the department. The loss of the remaining use of the facility or future revenue because of the retirement of the utility's facility is not compensable.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.323 Completion of relocation of facility. The relocation of the utility's facility must be completed:

1. By the employees of the utility;
2. Pursuant to a contract administered by the utility;
3. Pursuant to a contract administered by the department; or
4. Any combination of subsections 1, 2 and 3.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.327 Agreement for reimbursement: Contents.

1. If a utility is entitled to reimbursement for the relocation of a facility on a project of the department, the utility and the department shall enter into a written agreement concerning the relocation of that facility.

2. The written agreement must:

- (a) Describe the project which requires the relocation of the utility;
- (b) Designate the method which will be used to carry out the relocation of the facility;
- (c) Describe the method which will be used to determine the cost of relocation;

(d) Describe any improvements which the utility will make to the facility, including any voluntary betterments which are not required by the project and any extensions of the utility's facility proposed by the utility;

(e) Include plans and specifications of the proposed relocation of the facility, if required;

(f) Include an itemized estimate of the cost of relocation; and

(g) Include a schedule for the completion of the relocation of the facility.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.329 Determination of cost of relocation.

1. The method used to determine the cost of relocation must:

(a) Be approved by the department; and

(b) Ensure accurate and complete billings of the reimbursable costs of relocation.

2. If the estimated reimbursable cost of relocation is:

(a) Less than \$25,000, the department and the utility may enter into an agreement for a payment in a lump sum upon the completion of the work without a verification of the cost by an audit; or

(b) Twenty-five thousand dollars or more, the cost of relocation must, if possible, be determined on the basis of direct costs and related indirect costs accumulated in accordance with an accounting system for work orders prescribed by the federal or state agency which regulates the utility.

3. If an accounting system for work orders is not prescribed by a federal or state agency, the department will review the utility's accounting system and, if necessary, assist the utility in establishing an accounting system for work orders.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.331 Separate identification of work in written agreement for reimbursement: Requirements; exception.

1. If the written agreement required by NAC 408.327 includes provisions for:

(a) The relocation of an existing facility of a utility which is not eligible for reimbursement; or

(b) An extension of a utility's facility which is not required by a project of the department,

the work must be clearly and separately identified in the agreement. The agreement must include an estimate of the cost of the work and clearly indicate that the work will be completed at the utility's expense.

2. The work which is not eligible for reimbursement must:

(a) Be identified by a separate work order for the control of the costs of construction; and

(b) Not be billed to the department.

3. If the reimbursable and nonreimbursable existing facilities of a utility are so intermingled on a project as to make the control of construction costs by separate work orders impracticable, the utility may, with the prior approval of the department, calculate its reimbursement and estimate on a pro rata basis of reimbursable and nonreimbursable estimated costs. The pro rata percentage derived from the estimate must be applied to the direct costs and related indirect costs for preliminary engineering and relocation to determine the reimbursable amount owed to the utility.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.333 Plans for relocation of facility. The plans required by paragraph (e) of subsection 2 of NAC 408.327 must:

1. Be sufficiently detailed and complete to enable the department to analyze the proposed work;

2. Indicate the location, length, size, type, class and relevant operating conditions and features of design of each existing facility or proposed temporary or permanent facility, including any proposed changes, adjustments, relocations, removals and abandonments and all appropriate nomenclatures, symbols, legends, notes, color-codings and other identifications used in the plans;

3. Indicate the project, scale of the plan and the date the plan was prepared, horizontal and, if appropriate, vertical location of the existing, proposed or temporary facility concerning the alignment of the project, geometric features, right of way, stationing, grades, structures and other facilities and, if applicable, access control lines;

4. Indicate the limits of the right of way to be purchased from, by or on behalf of the utility, if applicable;

5. Indicate by symbols or notes any work which will be performed solely at the utility's expense; and

6. Indicate each facility to be adjusted, even if reimbursement is not claimed for the facility.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.337 Itemized estimate of cost of relocation of facility: Contents.

1. The itemized estimate described in paragraph (f) of subsection 2 of NAC 408.327 must:

(a) Include the estimated costs of:

- (1) Labor;
- (2) Construction overhead;
- (3) Materials;
- (4) Supplies;
- (5) Handling charges;
- (6) Transportation;
- (7) Equipment;
- (8) Rights of way; and
- (9) Preliminary and construction engineering.

(b) Separate and identify credits in detail, including credits for salvage, betterments and accrued depreciation.

(c) Include the major components of materials.

(d) Include the factors relating to construction overhead.

(e) Include a statement of the utility's compensable interests upon which its claim for reimbursement is made.

(f) Include a statement describing the method for continuing, preserving, relinquishing or extinguishing the occupancy rights of the utility.

(g) Include a statement that any facility which is relocated or adjusted within the right of way must be relocated or adjusted pursuant to the provisions of NAC 408.010 to 408.557, inclusive.

2. Unit costs, including average labor rates and broad gauge units of property, may be used to estimate the cost of relocation if the utility uses those rates or units in its operations and they represent direct costs and related indirect costs.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.339 Maintenance of records and accounts of relocation or adjustment of facility. A utility shall:

1. Maintain its records and accounts of the relocation or adjustment of the facility for at least 3 years after it receives the final payment for its reimbursable costs of relocation from the department; and
2. Make those records available, upon request, for inspection or audit by representatives of the department or the Federal Highway Administration.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.341 Authorization required before beginning work specified in agreement for reimbursement.

1. A utility shall not begin any work specified in the agreement described in NAC 408.327 unless it has:

- (a) Received authorization from the department to begin work; and
- (b) Notified the department of the scheduled date for beginning that work.

2. Any work performed before the utility:

- (a) Receives authorization from the department; or
- (b) Notifies the department of the scheduled date for beginning the work,

is not eligible for reimbursement.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.343 Authorization of department for adjustment of facility.

1. The department will, for a project relating to the adjustments of a facility, provide the utility with specific authorization for each phase of the project. The department may authorize:

- (a) Preliminary engineering services, including examinations at the site of the project and the preparation of plans, estimates and proof of reimbursable costs; and

(b) The utility to begin the adjustment or relocation if a written agreement has been entered into between the department and the utility.

2. Any work which a utility performs before it receives authorization from the department or which exceeds the scope of the authorization is not eligible for reimbursement.

3. The department may issue a written authorization for specific items, including the relocation of a facility, except that the costs incurred by the utility must be limited to those facilities for which the utility establishes proof of compensable interests.

4. The department may authorize a utility to begin work on the adjustments before it has entered into an agreement with the utility if:

(a) The utility has submitted to the department an estimate of the cost for the adjustments; and

(b) A written agreement between the department and utility is entered into as soon as possible.

5. If a proposed relocation or adjustment authorized by the agreement is determined to be unfeasible, the department will authorize a written change order to the agreement for any change which is required for the proposed relocation or adjustment. The utility must provide a written analysis and a revised estimate of the costs and plans to justify the change order.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.347 Use of employees of utility or contractor for adjustment or relocation of facility.

1. Except as otherwise provided in subsection 2, a utility shall use its employees and equipment to construct the adjustments or relocation of its facility.

2. If the utility is not able to perform the work with its employees or equipment at a time which is convenient to and in coordination with the project, the work may be done:

(a) By the lowest qualified bidder pursuant to a contract awarded by the department, if requested by the utility, or a contract awarded by the utility;

(b) As part of the project administered by the department pursuant to an agreement between the utility and the department; or

(c) By a contractor pursuant to a written contract between the utility and the contractor if the utility demonstrates to the department that it regularly uses that contractor for its work.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.349 Methods of developing and recording costs of relocation; lump-sum payments for relocation.

1. The utility shall record its cost of relocation pursuant to a system for work orders approved by the department unless another method of developing and recording costs is approved by the department.

2. Except for work done pursuant to a contract, the individual and total cost of relocation must be recorded in the utility's accounts. The department may inspect those accounts to verify that the costs billed by the utility are adequately supported by the utility's financial records in accordance with the approved method for developing those costs.

3. If the reimbursable cost of relocation is paid in a lump sum pursuant to an agreement between the utility and the department, the lump sum must not exceed the maximum amount eligible for reimbursement by the department or Federal Highway Administration.

4. The utility shall cooperate with the inspector assigned by the department to the site of the utility's relocation to ensure that accurate and complete documentation of the costs of labor, materials and equipment are recorded.

5. The utility's system for work orders or other accounting procedure must indicate:

- (a) The nature of each addition to or retirement from a facility;
- (b) The total costs of the facility; and
- (c) The source of those costs.

6. As used in this section, "system for work orders" means a procedure for accumulating and recording into the separate accounts of a utility all its costs concerning any change in its system or plant.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.351 Salaries, wages and expenses related to relocation.

1. The salaries and wages and any related expenses paid by the utility for work performed on the project are reimbursable, including labor for:

- (a) Preliminary engineering services;

- (b) Construction engineering;
- (c) The purchase of the right of way; and
- (d) The relocation of the facility.

2. The salaries and wages paid by the utility must be:

(a) Equal to the rates the utility pays for work performed on behalf of the utility;
and

(b) In accordance with the utility's contracts.

3. The salaries and expenses of the supervisors, managers and other necessary employees of the utility may be reimbursed for time worked directly on the project if the work performed is essential to the project and could not have been completed as economically by persons outside the organization.

4. The money paid by the utility to engineers, right-of-way consultants, appraisers, architects or any other persons for essential or specialized services directly related to the project is compensable if those services are provided pursuant to written agreements approved by the department.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.353 Indirect costs: Distribution and allocation. The distribution and allocation of indirect costs must be made on a uniform basis which is reasonable, equitable and in accordance with generally accepted practices of cost accounting.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.357 Indirect costs: Eligibility for reimbursement.

1. Indirect costs which are not charged directly to accounts for work orders or construction accounts may be eligible for reimbursement if they are allocated equitably to the direct costs of relocation or adjustment. All indirect costs billed by the utility are eligible for reimbursement by the department or Federal Highway Administration if the costs incurred by the utility are reasonable.

2. The records for indirect costs billed to the department must:

(a) Indicate the total amount, rate and basis for allocation for each additional expense; and

(b) Be maintained and available for inspection by the department or Federal Government for 3 years after the department makes the final payment for the relocation or adjustment.

3. Indirect costs which are not eligible for reimbursement include, without limitation, costs relating to:

- (a) Advertising;
- (b) The promotion of sales;
- (c) The interest paid to borrow money;
- (d) The interest for advances for construction costs;
- (e) The issuance of stock;
- (f) Bad debts;
- (g) Uncollectible accounts receivable;
- (h) Contributions;
- (i) Donations;
- (j) Entertainment;
- (k) Fines;
- (l) Penalties;
- (m) Lobbying; and
- (n) Programs for research.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.359 Labor surcharges reimbursable; bases for determination of reimbursement.

1. Labor surcharges, including charges for industrial insurance, insurance for liability and damage to property and benefits for employees of the utility are compensable.

2. The department will reimburse labor surcharges based on the:

(a) Cost to the utility; or

(b) Average rates which are representative of actual costs, subject to prior approval of the Federal Highway Administration. Average rates must be adjusted at least annually to reflect known anticipated changes and to correct for any variance of the applied costs for the preceding period.

3. If the utility is self-insured, the department will reimburse costs for insurance based on experience rates properly developed from actual costs. The self-insured rates may not exceed the rates of an insurance company for the class of employment covered.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.361 Materials and supplies: Cost of rehabilitation of facility reimbursable.

1. The costs of materials and supplies are reimbursable. Materials and supplies must be furnished from the utility's stock, if available, except that they may be obtained from other sources near the project if they are available at a lower cost.

2. If the materials and supplies are not available from the utility's stock, they may be purchased pursuant to competitive bids or existing continuing contracts. Small quantities of materials and supplies and proprietary products used in the utility's operation which are necessary for the maintenance of the system's compatibility may be excluded from the requirements of this section.

3. The department will not require a utility to reduce its standards for materials used for permanent changes to a facility which are required by a project of the department.

4. Materials and supplies which are:

(a) Furnished from the utility's stock must be billed at the prices for which they were purchased.

(b) Not furnished from the utility's stock must be billed according to the cost charged to the utility, including delivery to the site of the adjustment or relocation.

5. A reasonable cost for inspecting or testing a plant may be included in the cost of the materials and supplies.

6. The computation of the costs of materials and supplies must include a deduction for any offered discount, rebate or allowance.

7. Any sales or excise tax paid by the utility for its materials and supplies may be reimbursed if payment of the sales or excise tax is required by law or ordinance.

8. The cost of rehabilitating a utility's facility to comply with the requirements of the project are reimbursable if the cost does not exceed the cost to replace the facility.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.363 Materials recovered: Credit to project; sale.

1. Materials recovered from temporary use and accepted for reuse by the utility must be credited to the project at prices charged to the project, less the loss in service life not to exceed 10 percent of the prices charged to the project.

2. Materials recovered from a permanent facility of the utility which are accepted by the utility for return to stock must be credited to the project at the depreciated stock price for those materials at the time the materials are returned to stock.

3. Materials recovered which are not accepted for reuse by the utility, if determined by the department to have a net sale value, must be sold to the highest bidder by the department or the utility after inspection and solicitation for bids. If the utility conducts the sale, it must obtain the prior written approval of the department.

4. The net proceeds from the disposal of salvaged materials must be credited to the project. If the utility uses a system of periodic disposal by sale, credit to the project must be at the prevailing prices as indicated by the records of the utility.

5. If no market exists upon which to base current stock prices for used specialized equipment or materials, the utility may dispose of the equipment or materials by direct sale if it demonstrates that the sale:

(a) Complies with its established practices;

(b) Yields a greater value credit to the project than would likely be achieved by the disposal at a public auction or through the solicitation of bids; and

(c) Is an arms-length transaction between nonaffiliated persons.

6. The money from the sale, less the expenses of the sale and handling charges, must be credited to the department.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.367 Approval of reimbursement for total cost of removal of facility; abandonment of facility. The department may approve reimbursement to the utility for the total cost of the removal of a utility's facility if the removal is required by the project or the existing facility cannot be abandoned in place for aesthetic or safety reasons. If the utility abandons the facility in place and removes and recovers the materials, the

department will not reimburse the utility for the costs of removal which are greater than the salvage value of the materials.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.369 Direct costs of handling and loading materials and supplies.

1. The direct costs to:

(a) Handle and load materials and supplies at the utility's stores or material yards;
and

(b) Handle and unload the recovered materials accepted by the utility at its stores or material yards,

are reimbursable.

2. Average rates which are representative of actual costs may be used in lieu of actual costs, if approved by the department.

3. The average rates must be adjusted at least annually for anticipated changes and corrections to any applied costs for the preceding period. The utility may elect to receive as reimbursement:

(a) Five percent of the amount billed for the materials and supplies issued from its stores or material yards; or

(b) The value of the recovered materials in lieu of the actual or average costs for handling.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.371 Costs of operation, minor maintenance and depreciation of equipment; rental of equipment.

1. The average or actual costs of operation, minor maintenance and depreciation of equipment owned by the utility are reimbursable. If equipment which is owned by the utility is not available, the utility is entitled to receive reimbursement for the money paid to rent the equipment from the lowest qualified bidder or to obtain the equipment pursuant to existing continuing contracts at reasonable rates.

2. If the rental of equipment by competitive bidding or pursuant to a continuing contract is impractical because of the location or schedule of the project, the utility may obtain the rental equipment without bidding or a continuing contract if the money paid for the rental of the equipment does not exceed the prevailing rates for that rental equipment in the area.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.373 Cost for transportation and subsistence of employees; cost for movement of materials, supplies and equipment.

1. The utility's cost for the transportation and subsistence of employees which is directly attributable to the project is reimbursable.

2. The reasonable cost for the movement of materials, supplies and equipment to the project and the return to storage, including the cost of loading and unloading the equipment, is reimbursable.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.377 Allowance credits for betterments to facility.

1. The cost of any voluntary betterment to a facility which is replaced or adjusted and the net salvage value of any materials recovered must be credited to the project.

2. The accrued depreciation of the replacement of a utility's facility including a building, pumping station, filtration plant, power plant, substation or any other similar operational unit, must be credited to the project. Credit for accrued depreciation is not required for the replacement of a part of a utility's service, distribution or transmission lines.

3. Credit for a betterment is not required for an addition or improvement which:

(a) Is required by the project.

(b) Replaces a device or material which equals the requirements of the device or material which is replaced.

(c) Replaces a device or material which is not regularly manufactured with a device or material of the next highest grade or size available.

(d) Is required by law.

(e) Is required by the design practices regularly used by the utility in its work and which provides a direct benefit to the project.

4. Credit for accrued depreciation for a project is not required for an operational unit of a utility, including a building, pumping station, filtration plant, power plant and substation, which is rehabilitated or moved to accommodate a project.

5. The allowance of credits required by the provisions of this section may not exceed the cost of the additions or improvements required by the project.

6. As used in this section, "accrued depreciation" means an amount equal to the ratio between the actual length of service and the total life expectancy applied to the original cost of the operational unit.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.379 Billings.

1. After an agreement between the department and a utility has been executed and the department authorizes the utility to begin work, the utility may be reimbursed by the department pursuant to progress billings for the costs the utility incurs. The cost of materials stored at the site of the project or specifically purchased and delivered to the utility for use on the project may be reimbursed pursuant to the progress billings.

2. The utility may provide progress billings to the department and shall, at the earliest practicable date, provide a final and complete billing of all remaining costs incurred or the lump-sum amount which is due.

3. Each billing must:

- (a) Include the number of the agreement; and
- (b) Indicate whether it is a progress billing or final billing.

4. Each billing, except a bill for a lump-sum amount, must include:

- (a) The major components of materials and supplies;
- (b) The amount charged for labor by hours, class and rate; and
- (c) The equipment used by hour and rate.

5. The utility shall submit three copies of each billing to the department.

6. The department will, within 60 days after it receives a final billing from the utility, pay the utility an amount equal to at least 95 percent of the cost of the relocation. The department will pay the utility the remaining amount of the cost of relocation after it has conducted an audit of the cost of relocation.

7. As used in this section, "progress billing" means a bill issued by a utility to the department before a final billing which sets forth the costs of the work completed by the utility during a specific period of the relocation of a utility's facility.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

General Requirements for Design and Location

NAC 408.403 Facility or encroachment upon state highway or right of way for state highway: Authorization for occupancy required.

1. Each facility or encroachment upon a state highway or right of way for a state highway must be authorized pursuant to an agreement to occupy or use the right of way unless the occupancy was established before the highway became a state highway.

2. If the department does not have a fee interest in the property upon which the state highway is located, the owner of the facility or other encroachment upon the state highway must obtain an occupancy permit and the consent of the owner of the property upon which the state highway is located.

3. The department will allow the joint use of state highways or rights of way for state highways if essential service to the general public is provided and joint use can be accommodated within the state highway without substantially affecting the operation, safety, maintenance or aesthetics of the state highway.

4. The department will perpetuate the existing rights of a utility which is required to relocate a facility because or in accommodation of a project of the department if the utility had a prior compensable interest in the property.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.407 Transverse crossing and longitudinal encroachment of state highway: Requirements.

1. The department may allow the transverse crossing and longitudinal encroachment of a state highway by a line of a private utility if the length of the crossing or encroachment is less than 1/2 mile. A longitudinal encroachment of a state highway by a line of a private utility which is more than 1/2-mile long must be proven by the owner of the utility to be in the public interest. The department will allow such an encroachment if the private line provides service to the general public or a significant segment thereof.

2. The owner of a private utility who wishes to place a longitudinal encroachment which is more than 1/2-mile long in the right of way of a state highway must file an application with the department. The application must include:

- (a) The service which will be provided by the utility;
- (b) The specific market or segment of the public which will be served;
- (c) The location or distribution of the segment of the public which will be served;
- (d) The basis for marketing the commodity or service conveyed; and

(e) Any economic benefits which will accrue to this state or its residents if the application is approved.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.409 Longitudinal installation of facility upon state highway or right of way of state highway; adoption by reference of publications for placement of facilities; restoration of appurtenances and natural features.

1. A longitudinal installation of a utility's facility upon a state highway or right of way of a state highway must be made as far from the traveled way as possible.

2. The department hereby adopts by reference the following publications of the American Association of State Highway and Transportation Officials:

(a) "A Guide for Accommodating Utilities Within Highway Right of Way," 1994 edition, which may be obtained from the American Association of State Highway and Transportation Officials, 444 N. Capitol Street, N.W., Suite 225, Washington, D.C. 20001, for the price of \$6 plus \$1.50 for shipping and handling.

(b) "Roadside Design Guide," 1989 edition, which may be obtained from the American Association of State Highway and Transportation Officials, 444 N. Capitol Street, N.W., Suite 225, Washington, D.C. 20001, for the price of \$49.25.

3. The department will use the publications described in subsection 2 to determine whether the placement of a utility's facility which is mounted on the ground or an encroachment which is above the ground is acceptable or must be altered, or if it cannot be altered, what measures must be taken to ensure highway safety.

4. If a utility's facility or other authorized encroachment is placed within any state highway, the utility or the owner of the encroachment shall restore all highway facilities, appurtenances, natural features and vegetation disturbed in the placement of the encroachment to a condition which is at least comparable to the condition which existed before the placement of the encroachment.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.411 Adoption by reference of publications for construction upon state highway or within right of way for state highway; conditions for approval of longitudinal installation of facility.

1. The department hereby adopts by reference the following publications:

(a) "Standard Specifications for Road and Bridge Construction," 1986 edition, which may be obtained from the Department of Transportation, 1263 South Stewart Street, Carson City, Nevada 89712, for the price of \$20.

(b) "Standard Plans for Road and Bridge Construction," 1994 edition, which may be obtained from the Department of Transportation, 1263 South Stewart Street, Carson City, Nevada 89712, for the price of \$3.

(c) "Manual on Uniform Traffic Control Devices," 1988 edition, which may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, for the price of \$30.

2. All construction upon a state highway or within a right of way for a state highway must comply with the requirements set forth in the publications described in subsection 1.

3. The department may approve a longitudinal installation of a utility's facility upon the part of a freeway where access is controlled if:

(a) The placement of the utility's facility outside that part of the freeway where access is controlled would damage or disrupt wetlands or remove agricultural lands used for the production of crops, or if no practical alternative is available and the right of way for the highway upon which the facility is located is not expected to be used for expansion of the facility; or

(b) A private right of way is not available or the right of way or the costs of construction would be prohibitively expensive.

4. A utility which wishes to make a longitudinal placement of a facility upon the part of a freeway where access is controlled must:

(a) Submit a written request and evaluation, including the alternatives considered and the cost estimates. The estimates must clearly demonstrate that the longitudinal encroachment is the most practicable and feasible of the available alternatives.

(b) Demonstrate that the longitudinal encroachment upon that part of the freeway would:

(1) Benefit the utility's customers and the users of the highway; and

(2) Not adversely affect the use, operation, maintenance or expansion of the facility.

5. The department will not approve a longitudinal placement of a facility upon the part of a freeway where access is controlled unless the facility will:

(a) Be located at or as near as possible to the limits of the control and as far from the roadway as practicable;

(b) Not be placed within the clear recovery area without taking appropriate measures to protect the users of the highway;

(c) Be constructed and maintained without allowing access from the main traveled way or connecting ramps of the freeway, if possible; and

(d) Be constructed and maintained in such a manner as to reduce significantly the hazard to or provide the maximum safety of the facility and the users of the highway if the facility fails.

6. The utility must submit to the department a plan for controlling traffic which:

(a) Allows access for construction and maintenance activities; and

(b) Protects the traffic on the freeway during those construction and maintenance activities.

7. The department will:

(a) Approve only facilities which require limited and infrequent maintenance for placement upon the area of a freeway where access is controlled.

(b) Not approve the placement of any facility from which service connections will be made except for a facility which is used exclusively for the highways.

(c) Except for aerial lines for communications, not approve the longitudinal placement of a facility located above the ground upon an area of the freeway where access is controlled. Such aerial facilities must be limited to the construction of a single pole which includes a vertical arrangement of conductors and cables.

8. As used in this section, "main traveled way" has the meaning ascribed to it in NAC 408.722.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.413 Control of traffic.

1. Adequate warning signs and devices to control traffic must be installed in the facility and in the areas where construction or maintenance of the encroachment is performed in accordance with the "Manual on Uniform Traffic Control Devices," 1988 edition.

2. If the flow of traffic will be disrupted or other conditions at the site require, the utility shall submit a written plan for controlling traffic to the department for approval by the district engineer before any work may begin upon the right of way of the highway.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.417 Determination of likelihood of accident or injury of facility; ranking of work concerning improvement of safe operation of facility.

1. If the department or utility determines that the utility's facility is likely to be associated with injury or accident to the users of the highway, as indicated by safety studies or the history of accidents, the department will, after consulting with the utility, require it to make certain changes to reduce the probability of injury or accident. The changes required by the department may include changes to the highway or the utility's facility.

2. The department will rank all work concerning the improvement of the safe operation of a facility in order of priority in relation to other programs concerning highway safety in such a manner as to ensure the greatest benefit for the least cost.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.419 Conditions for installation of facilities traversing or adjacent to areas of scenic or natural beauty.

1. Except as otherwise provided in subsection 2, the department will not approve the installation of a utility's facility within the right of way of a state highway which traverses or is adjacent to areas of scenic or natural beauty, including public park and recreation lands, wildlife and waterfowl refuges, historic sites as described in 23 U.S.C. § 138, scenic strips, overlooks, rest areas or landscaped areas.

2. The department may approve the installation of a utility's facility within the right of way of a state highway described in subsection 1 if the underground or aerial installations do not require extensive removal or alteration of trees or terrain features visible to the users of the highway or impair the aesthetic quality of the area being traversed.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

Occupancy Permits

NAC 408.427 Application.

1. An application for an occupancy permit to place a facility or other encroachment on a state highway or within a right of way of a state highway must include:

(a) The highway alignment, centerline and right of way lines, mileposts or highway engineering stationing;

(b) Color coding, with a legend which indicates the facility to be installed, removed, abandoned or adjusted;

(c) Directional orientation, including arrows pointing north and tangent bearings which are drawn to engineering or architectural scale;

(d) Widths, boundaries, property lines and significant topographic features of the right of way of the highway;

(e) Profile or cross-section drawings indicating an elevation view of the proposed overhead or underground utility or drainage installations in relation to the highway; and

(f) The location of any existing facility if any change, extension or addition to the existing facility is proposed.

2. The department will not authorize:

(a) The placement of any encroachment which is not necessary for the development, use or enjoyment of the property adjacent to the highway or which is not otherwise clearly in the public interest; or

(b) The placement of a monument within the right of way of a highway at the entrance of a subdivision or other development, including any appurtenant signs which identify or advertise the subdivision or development.

3. The department may require a change in the prior approval of the placement of a facility or other encroachment within a right of way of a state highway if the change is necessary to protect the users of the highway or the facility. If the department has issued an occupancy permit for the facility or encroachment, any such required change must be made at the expense of the owner of the facility or encroachment.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.429 Applicants for occupancy permits: Report on impact of traffic required; requirements for report.

1. An applicant for an occupancy permit must submit to the department a report concerning the impact of traffic for all driveways and street intersections which serve major areas of traffic. The report must be prepared by a professional engineer who possesses experience in transportation planning and engineering traffic.

2. The report must contain:

(a) The type and extent of the proposed development, including any planned expansion.

(b) A scaled plan of the site of proposed development. The plan must:

(1) Indicate the location of streets and highways adjoining the proposed development including the proposed points of access from the site to the adjoining streets and highways;

(2) Indicate the location of the proposed buildings, driveways and parking areas within the development; and

(3) Include a diagram of the proposed pattern of traffic within the development.

(c) A detailed description of current conditions of the flow of traffic on the highways and adjoining streets and intersections, including existing points of access, patterns of traffic and posted speed limits for those highways and streets, without a consideration of the additional traffic that is anticipated to be generated by the proposed development.

(d) The projected amount of traffic to be generated by the proposed development, at the completion of the initial development and, if the development is to be completed in phases, for each year before the additional phase of development is completed.

(e) An analysis of the impact of traffic on the existing highways and adjoining areas by the additional traffic anticipated to be generated by the proposed development, at the completion of the initial development and, if the development is to be completed in phases, for each year before the additional phase of development is completed. Any projections for future conditions must also include increases in traffic expected on the highways and streets studied separately from traffic attributable to the development that is the subject of the report.

(f) Recommendations to mitigate any adverse effect on existing or anticipated future flows of traffic on the highways and streets assessed which is attributable to the proposed development. Measures to mitigate anticipated adverse effects may include, without limitation, the:

(1) Installation of traffic signals at key intersections identified in the report;

(2) Widening of the highways or streets to accommodate adequately additional volumes of traffic attributable to the proposed development; and

(3) Construction of street medians or islands to control the movement of traffic in and around the proposed development.

(g) A detailed description of the:

(1) Methods used to prepare the report;

(2) Source of information used in the report for existing volumes of traffic and projected future increases in volumes of traffic; and

(3) Procedures used for an analysis of the data included in the report.

3. The department will include in the permit authorizing access from the state highway to the proposed development, specific conditions that must be complied with by the developer of the proposed site, including the installation of improvements to the highway which may include, without limitation, the recommendations set forth in paragraph (f) of subsection 2.

4. Additional information concerning the preparation of reports on the impact of traffic from proposed developments on existing highways and streets is available at no cost from the Traffic Engineer of the Department of Transportation, 1263 S. Stewart Street, Carson City, Nevada 89712, or from any of the following district offices of the department located at 123 E. Washington Avenue (P.O. Box 170), Las Vegas, Nevada 89101, 310 Galletti Way (P.O. Box 930), Reno, Nevada 89504, or 1951 Idaho Street (P.O. Box 111), Elko, Nevada 89801.

5. As used in this section, "major area of traffic" means the site of a proposed development with an anticipated volume of traffic ingressing and egressing the site through any of its vehicular points of access at a rate of 100 or more vehicles during the anticipated peak hour of flow of traffic.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.431 Request for permit for landscaping.

1. Landscaping within a right of way of a highway may be allowed pursuant to the provisions of an occupancy permit if the permit is submitted only for landscaping or if the landscaping is requested in connection with the required development of the site, including approaches, curbs, gutters and sidewalks.

2. Each request for a permit for landscaping must contain specific plans for the landscaping, including:

(a) The type of plants and the botanical name of each species;

(b) The type of planters;

(c) The type of system for irrigation; and

(d) The method for grading the landscape.

3. If factors relating to sight distance or clear recovery area are applicable, all plants proposed for use must not exceed 2 feet in height at maturity. Solid objects may not be used in landscaping.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.433 Shelters or benches: Requirements.

1. Shelters or benches used by persons waiting for public buses placed by or pursuant to the authority of a local government or public transportation authority, may be placed within the right of way of a state highway pursuant to an occupancy permit:

(a) Granted for each shelter or bench; or

(b) Which includes the jurisdictional area of the local government or public transportation authority.

The permit must be issued to the local government or public transportation authority even if the shelter or bench is placed and owned by a private contractor or provider.

2. A shelter used by persons waiting for public buses must:

(a) Except for the support framework and roof, be constructed of durable and transparent materials;

(b) Not create a safety hazard;

(c) Not obstruct the sight of motorists; or

(d) Not create an unreasonable impediment to pedestrian traffic.

3. A shelter must not be longer than 18 feet or deeper than 6 feet.

4. Shelters and benches must be regularly maintained by the owners of the shelters and benches.

5. Shelters and benches which are financed or supported by displays for advertising placed thereon or appurtenant thereto may be allowed if the advertising is not greater than 48 square feet per shelter or 32 square feet per bench. The local government or public transportation authority shall ensure that shelters or benches are placed only to serve the members of the public and that additional shelters or benches are not placed primarily to accommodate displays for advertising.

6. A shelter and any appurtenant displays for advertising may be lighted. Flashing or moving lights are prohibited. The lighting must not be so bright or misdirected as to

blind or distract motorists. Any appurtenant lighted display for advertising must not be lighted in greater intensity than other parts of the shelter.

7. Any shelter or bench which does not comply with the provisions of this section or is otherwise determined by the district engineer to create a traffic or pedestrian hazard must be corrected immediately by the holder of the occupancy permit.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.437 Requirements for performance or cash bond.

1. The district engineer may require a performance or cash bond in an amount sufficient to ensure the successful and timely completion of any improvements authorized pursuant to an occupancy permit.

2. The district engineer shall, in determining whether a bond is necessary, consider:

(a) The department's experience with the holder of the permit;

(b) The potential disruption to the maintenance or operation of the highway if the placement of the authorized improvements is approved; and

(c) The potential for increased hazards to the users of the highway if the proposed improvement is not placed in a timely manner or is placed in a manner inconsistent with the provisions of the permit.

3. A person who is issued an occupancy permit which authorizes the placement of an encroachment within the right of way of a highway shall obtain any approval required by a local government for the proposed improvement. If the approval of a local government differs from the approval granted by the department, the holder of the permit shall coordinate the resolution of any difference between the department and the local government.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

Underground Installations

NAC 408.447 Standards for placement of utilities or pipes under state highway.

1. Utilities or pipes placed under a state highway must:

(a) Be jacked or otherwise forced underneath the pavement without disturbing the pavement.

(b) Not be placed inside culverts used for drainage.

2. Pavement or roadway must not be cut unless prior approval from the department is obtained.

3. The department will authorize trenching across a paved highway if:

(a) The roadway is scheduled for overlay or reconstruction within 2 years after the trenching is scheduled to begin;

(b) The roadway is in such poor condition that a permanent patch of the pavement will not adversely affect the condition of the surface of the roadway;

(c) The area is so congested with other underground facilities that boring is impractical; or

(d) The installation has been attempted by jacking or boring and is impractical because of the conditions below the ground.

4. A paved area which is trenched must be patched pursuant to the requirements set forth in "Standard Pavement Patching," 1993 edition, published by the department. A copy of the publication may be obtained, free of charge, from the Department of Transportation, 1263 S. Stewart Street, Carson City, Nevada 89712, or from any of the following district offices of the department located at 123 E. Washington Avenue (P.O. Box 170), Las Vegas, Nevada 89101, 310 Galletti Way (P.O. Box 930), Reno, Nevada 89504, or 1951 Idaho Street (P.O. Box 111), Elko, Nevada 89801.

5. Except as otherwise authorized by the department:

(a) No excavation within the right of way of a highway may be made which is less than 6 feet from the edge of the pavement.

(b) There must be, within the right of way of a highway, at least 36 inches of cover over all underground utilities, pipes or conduits, including at ditch or wash flowlines.

(c) Underground pipes and cables must be placed at least 12 inches below culverts or drainage boxes.

6. Each trench must be filled with granular backfill or any other material approved by the district engineer to the elevation of the bottom of the existing base and surfacing or subgrade in accordance with the requirements set forth in the "Standard Specifications for Road and Bridge Construction," 1986 edition.

7. As used in this section:

(a) "Base" means the layer of material of a designated type and thickness which is placed on a subbase or subgrade to support a surface.

(b) "Culvert" means any structure which is not a bridge which provides an opening under a roadway.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.449 Marking and designation of underground utilities, pipes and conduits in right of way of highway. All installations of underground utilities, pipes and conduits in the right of way of a highway must be marked and designated as set forth in NAC 408.451, 408.453 and 408.457.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.451 Installation of underground facility: Curbs and gutters.

1. If an underground facility of a utility is installed along a highway which does not have curbs and gutters:

(a) A standard utility marker or 4-inch by 4-inch timber must be installed and maintained by the utility outside the ditch line at each location where the facility crosses the highway. The timber or marker must extend 30 inches above the ground and have painted indelibly thereon the nature of the underground obstruction and the name or identifying symbol of the owner.

(b) If a facility of a utility is placed longitudinally along a highway, a standard utility marker or 4-inch by 4-inch timber must be placed adjacent to the offset at such a distance as may be specified by the district engineer and at intervals of not more than 1,000 feet, at each angle point, or if nonconcentric with the highway, at least every 300 feet.

2. If an underground facility of a utility is installed within a highway which has curbs and gutters, each crossing must be identified by the utility with a description and the name of the utility stenciled on the curb in black letters on white background in a compact and legible manner.

3. All installations described in this section must be placed or constructed in such a manner as not to create a hazard to the users of the highway.

4. The provisions of this section do not apply to installations in incorporated cities if the installation is completed in accordance with the ordinances or established practices of the incorporated city.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.453 Requirements for casing.

1. Except as otherwise provided in subsection 2, casing must be:

- (a) Used for the width of the roadway for all pipes carrying fluid or gaseous substances which cross the highway.
- (b) Designed to support the load of the highway and loads imposed thereon.
- (c) At least equal to the structural requirements for facilities for the drainage of highways.
- (d) Composed of material sufficient to withstand the conditions to which they may be exposed.

2. The district engineer may waive the requirements of this section if an engineering analysis indicates that casing is not necessary.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.457 Copper wire required for facility without component of metallic construction. If the location of an underground facility is difficult to determine by a visual inspection and the facility does not have a component of metallic construction, the facility must be equipped with a copper wire to locate the facility by an electronic device.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.459 Requirements for bore holes or pits.

1. A bore hole or pit may be placed within 35 feet of the edge of the shoulder of the pavement of a highway if:

- (a) The bore hole or pit area is completely fenced.
- (b) The utility or its contractor does not use any part of the right of way for the installation of the facility, except in the fenced areas or as otherwise authorized by the district engineer.
- (c) Entrance to the bore hole or pit area is not allowed from the traveled portion of the highway.

2. A bore hole or pit is not allowed within the median area of a highway except as authorized by the district engineer. Extreme care must be used to prevent the impairment of the ground under the pavement and shoulders of the pavement.

3. Hydraulic or wet boring is prohibited, except that a small amount of water may be used to cool the boring bit if water pressure is not used to drill the bore or displace and wash out the material to be removed.

4. Any void created by boring outside the casing must be filled with pressure-treated grout.

5. As used in this section, "grout" means a cement mortar or a slurry of fine sand or clay.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.461 Inspection and repairs of underground facilities.

1. The owner of an underground facility may:

(a) Inspect and repair the underground facility, including manholes, conduits, cables and pipelines;

(b) Open manholes to repair the underground utility and uncover not more than 50 feet of cables or lines buried in the ground of the right of way of the highway.

2. If a manhole lies within the improved surface of the highway, the utility shall provide adequate protection of traffic in accordance with its occupancy permit or, as otherwise required by the district engineer, for the installation and use of the manhole. An excavation must not be made in improved surfaces, landscaped areas or less than 6 feet from the edge of pavement without the prior approval of the district engineer.

3. The utility may make an emergency repair by excavating through an improved surface if a break in a line, conduit or cable under the pavement causes a hazard to traffic or a serious interruption of essential service. The utility shall notify the district engineer of the emergency as soon as possible. Backfilling and the replacement of the pavement must be performed pursuant to the provisions set forth in the "Standard Specifications for Road and Bridge Construction," 1986 edition. Any landscaped area which is disturbed must be relandscaped.

4. If trenching across the pavement of the highway is approved, the district engineer may require rotomilling and repaving with an open-graded course of pavement beyond the trenched area to reestablish and maintain the quality of the roadway. The district engineer shall determine the requirements for rotomilling and repaving of the highway.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

Aerial Installations

NAC 408.467 Conditions for approval of aerial installations. The department may approve an aerial installation if:

1. Other locations are not available, extremely difficult and costly or are less desirable aesthetically;
2. Placement of the facility underground is not technically feasible or is unreasonably costly; and
3. The installation will be made at a location and use suitable designs and materials which enhance the aesthetic quality of the area being traversed.

Suitable designs include, without limitation, self-supporting armless, single-pole constructions with vertical configurations of conductors and cables.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.469 Aerial electrical or communication lines; National Electrical Safety Code adopted by reference; poles supporting crossings; poles for longitudinal installation.

1. Except as otherwise provided in this section, the owner of a utility facility shall, when it installs aerial electrical or communication lines, including television cable, ensure that the clearances and method of construction are in accordance with the rules for the installation and maintenance of electrical supply and communication lines set forth in the "National Electrical Safety Code," 1993 edition, which is hereby adopted by reference. A copy of the publication may be obtained from the Institute of Electrical and Electronics Engineers, 345 East 47th Street, New York, New York 10017, for a price of \$47.50 plus \$4 for shipping.

2. An aerial electrical line must not be placed less than 22 feet above the ground. An aerial telephone or television cable line must not be placed less than 18 feet above the ground.

3. Guy wires must:

(a) Not be attached to trees; and

(b) Be kept at a minimum elevation above the ground pursuant to the requirements of the "National Electrical Safety Code," 1993 edition, unless the district engineer establishes requirements which exceed that code.

4. Aerial crossings must conform to the requirements of the "National Electrical Safety Code," 1993 edition.

5. Aerial crossings must be made at or as near to 90 degrees as possible across the roadway. Poles supporting crossings must be located outside the clear recovery area and, if possible, located at or outside the line of the right of way. If a highway is divided, poles must not be placed within the median strip unless the median strip is at least 80 feet wide and the median pole is necessary to support the crossing. If the poles cannot be located outside the clear recovery area, appropriate measures must be taken to protect the users of the highway, including, if possible, the installation of impact attenuators, breakaway poles, guy wires or guardrails.

6. Poles used for a longitudinal installation must be placed outside the clear recovery area and at or as near to the right of way as possible. If the poles cannot be located outside the clear recovery area, appropriate measures must be taken, including, if possible, the installation of guardrails, impact attenuators or breakaway poles. In those areas where curbs, gutters and sidewalks have been installed, the poles must be located behind or at the back edge of the sidewalk, if possible. A pole must not be located closer than 2 feet behind the face of the curb.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

Miscellaneous Provisions

NAC 408.523 Drainage of adjacent wetlands onto state highway prohibited; requirements for drainage systems; adoption by reference of Urban Hydrology for Small Watersheds.

1. The installation of a privately owned line or conduit on a state highway or within the right of way of a state highway to drain adjacent wetlands onto the highway or right of way is prohibited.

2. A person who develops property adjacent to an area for the drainage of a highway shall ensure that the existing flow patterns are continued. Any proposed change to a drainage system by an adjoining developer must be supported by calculations for drainage.

3. A plan for drainage and the calculations relating to the runoff of water must be submitted to the department for any development or construction which affects the right of way for the highway. The plan must include calculations for peak runoff for existing and proposed developments if the use of the land is substantially altered.

4. The department hereby adopts by reference "Urban Hydrology for Small Watersheds, Test SCS TR-55," June 1986. A copy of the publication may be obtained from the National Technical Information Center, United States Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, for a price of \$27, plus \$3 for shipping and handling.

5. Test SCS TR-55 or computer programs of equal or greater standards may be used to develop a plan for drainage by the adjoining developer. Peak flows into highway storm drains must not increase for the 10-year flood event because of the development of the adjoining property. Peak flows through the crossdrains of a highway must not increase for the 25-year flood event because of the development of adjoining property.

6. The department may authorize an improvement of its drainage structures to provide for increased flows if there is no adverse effect on any property located downstream.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.527 Asphalt approaches.

1. The owner of property which is adjacent to a highway shall, if constructing asphalt approaches, place the paving at least 25 feet from the edge of the existing pavement or to the edge of the right of way if there is less than 25 feet available. The type of paving must be approved by the district engineer.

2. Except as otherwise authorized by the district engineer, driveways, approaches and intersections of streets must be constructed pursuant to the provisions set forth in the "Standard Plans for Road and Bridge Construction," 1994 edition or the "Standard Specifications for Road and Bridge Construction," 1986 edition.

3. If an approach adjoins existing roadway paving, the roadway paving must be sawcut in a neat straight line the entire length of the approach including any required taper lengths. The width of the sawcut must be at least 1 foot or as otherwise specified by the district engineer.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.533 Conditions for requirement of construction of left-turn storage lane.

1. The construction of a left-turn storage lane is required if:

(a) The development which is served by the access generates 100 or more left-turn movements at the peak hour;

(b) It is proposed by a traffic impact study; or

(c) It is required because of the physical conditions necessary to maintain safety on the highway.

2. One foot of the pavement edge must be sawcut and removed within the limits of the widening of the pavement.

3. The owner's representative shall conduct a test for compaction in the manner prescribed by the district engineer.

4. The improvement of the gravel and pavement must comply with:

(a) The plans or additional terms and conditions set forth in the occupancy permit;
and

(b) The requirements set forth in "Standard Specifications for Road and Bridge Construction," 1986 edition.

5. A licensed engineering firm shall place striping tape on the pavement which reflects light at intervals of 25 feet with an appropriate color immediately after the open-grade overlay is completed. The striping tape must be applied on the roadway in strips 4 inches wide by 12 inches long pursuant to a plan approved by the department.

6. Permanent signals for traffic must be installed as specified by the district engineer.

7. As used in this section, "compaction" means the forcing or compressing together of particles of soil by a mechanical device to determine the required density of the materials used.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.537 Requirements for construction of curbs and gutters in right of way of highway.

1. Curbs and gutters which are placed within the right of way of a highway must be constructed in accordance with the requirements set forth in "Standard Plans for Road and Bridge Construction," 1994 edition.

2. Except as otherwise authorized by the district engineer, each sidewalk must be at least 4 inches deep and constructed pursuant to the requirements:

(a) Adopted by the local government where the construction is located;

(b) Set forth in the "Standard Plans for Road and Bridge Construction," 1994 edition; or

(c) Set forth in the "Standard Specifications for Road and Bridge Construction," 1986 edition.

3. Except as otherwise authorized by the district engineer, a ramp for wheelchairs must be constructed on all curb and gutter radii on streets and approaches and constructed pursuant to the requirements:

- (a) Adopted by the local government where the construction is performed;
- (b) Set forth in the "Standard Plans for Road and Bridge Construction," 1994 edition; and
- (c) Set forth in the "Standard Specifications for Road and Bridge Construction," 1986 edition.

4. If the opposing existing curb and gutter radii do not have ramps for wheelchairs, the developer shall reconstruct the existing curb and gutter radii with ramps for wheelchairs.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.543 Requirements for mailboxes or delivery boxes; occupancy permit not required.

1. An occupancy permit is not required for any mailbox or delivery box for newspapers installed and maintained pursuant to the provisions of this section and NAC 408.547.

2. A person shall not install a mailbox or delivery box for newspapers:

(a) Within a right of way of a highway if it interferes with the safety of the traveling public or the maintenance or operation of the highway.

(b) If access to the mailbox or delivery box for newspapers is obtained from the lanes of a freeway or is otherwise prohibited by law or regulation.

3. Except on one-way streets, each mailbox or delivery box for newspapers must be located on the right-hand side of the roadway in the direction of the delivery route.

4. The bottom of the mailbox must be set at a height established by the United States Postal Service.

5. Except as otherwise provided in NAC 408.547, the roadside face of the mailbox must be set from the edge of the traveled way at least:

(a) Eight feet, if no paved shoulder exists;

(b) The width of the all-weather shoulder plus not less than 8 inches nor more than 12 inches; or

(c) The width of an all-weather turnout specified by the department, plus not less than 8 inches nor more than 12 inches,

whichever is greatest.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.547 Mailboxes and delivery boxes; location on certain residential streets or rural roads; requirements.

1. The department may authorize the installation of a mailbox or delivery box for newspapers on certain residential streets or rural roads if it determines that it is in the public interest to authorize lesser clearances or to require greater clearances.
2. If a residential street has curbs, the roadside face of the mailbox or delivery box must be set back not less than 6 inches nor more than 12 inches from the face of the curb. If a residential street does not have curbs or all-weather shoulders and carries a low volume of traffic operating at low speeds, the roadside face of a mailbox or delivery box must be set back not less than 8 inches nor more than 12 inches from the edge of the pavement.
3. The department will not approve the installation of a mailbox or delivery box which is less than 2 feet, 8 inches or more than 6 feet, 8 inches from the edge of the pavement on a rural road which has little traffic operating at low speeds.
4. If a mailbox is located at the entrance of a driveway, it must be placed on the far side of the driveway in the direction of the delivery route.
5. If a mailbox or delivery box for newspapers is located at an intersecting road whose average daily traffic:
 - (a) Is 400 vehicles or less, the mailbox or delivery box must be located at least 100 feet; or
 - (b) Is more than 400 vehicles, the mailbox or delivery box must be located at least 200 feet,beyond the center of the intersecting road in the direction of the delivery route.
6. A mailbox must be made of light sheet metal or plastic construction which conforms to the requirements of the United States Postal Service. A delivery box for newspapers must be made of light sheet metal or plastic which is suitable for holding a newspaper.
7. Not more than two mailboxes may be mounted on a structure unless the structure is installed pursuant to the requirements set forth in subsection 14. A delivery box for newspapers may be mounted below the mailbox on the side of the support for the mailbox.

8. A support for a mailbox must not be set in concrete unless the support is installed pursuant to the requirements set forth in subsection 14.

9. A 4-inch by 4-inch wood post or a steel pipe of standard strength which is 2 inches in diameter and embedded not more than 24 inches into the ground will be acceptable as a support for a mailbox. A metal post must not be fitted with an anchor plate, except that it may have a device to prevent twisting and which extends not more than 10 inches below the ground.

10. The mailbox or delivery box for newspapers must be securely attached to the structure for support in such a manner as to ensure that the mailbox or delivery box will not separate from the top of the structure if it is struck by a motor vehicle.

11. The space between the centers of the support posts must be at least $\frac{3}{4}$ of the height of the posts above the ground.

12. Designs for supports for mailboxes which are not described in this section may not be used unless approved by the district engineer.

13. A postal patron shall notify the department of any new or existing installation of a mailbox or delivery box if the shoulder of the pavement is inadequate to allow access to the mailbox or delivery box for newspapers for motor vehicles in all conditions of weather. If widening of the shoulder of the pavement is required, the postal patron shall apply to the department for an occupancy permit.

14. The department will authorize the installation of a unit for the residential delivery of mail or boxes for the delivery of newspapers installed by the United States Postal Service within a right of way of a state highway pursuant to an occupancy permit if that installation complies with the requirements set forth in the "Guide For Erecting Mailboxes on Highways," May 24, 1985, which is hereby adopted by reference. A copy of the publication may be obtained from the American Association of State Highway and Transportation Officials, 444 N. Capitol Street, N.W., Suite 225, Washington, D.C. 20001, for the price of \$5. There is no fee for the permit.

15. An installation of a mailbox or delivery box for newspapers which does not comply with the provisions of this section is an unauthorized encroachment.

16. The location and construction of mailboxes must conform to the regulations of the United States Postal Service and the department.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

NAC 408.557 Authorization of direct access from freeway by locked gate.

1. The department may authorize direct access from a freeway by a locked gate. The uses for the access must be restricted to access for:

- (a) The maintenance of a railroad or utility;
 - (b) Communications or microwaves by a utility or governmental agency for public safety; or
 - (c) Agricultural purposes.
2. The department will not authorize direct access from a controlled access route by a locked gate if:
- (a) Local roads, even if more circuitous or unimproved, provide access; or
 - (b) Access may be constructed from local roads at a cost which is not prohibitive and in a manner which does not unreasonably impair the environment.
3. The department may, pursuant to an agreement with the user of the locked gate, authorize direct access through a locked gate if it determines that:
- (a) The authorization is in the public interest;
 - (b) The safety, maintenance and use of the highway would not be affected; and
 - (c) There is no other alternate access which may be practicably obtained or developed.
4. The agreement must specify the user and the authorized uses of the access. A motor vehicle may only use right turns to gain access to the locked gate or highway. A motor vehicle must not cross the median and must be parked off the roadway if stopped to lock or unlock the gate.
5. The authorized user shall place his lock on the locked gate and securely lock the gate when it is not in use. The lock must be identified with the user's name. If a user notices an unauthorized or unidentified lock on the gate or any condition which would make it impossible to lock the gate, he shall report that condition to the appropriate district engineer as soon as possible.
6. The department will maintain a written inventory of locked gates and authorized users and regularly review the gates to ensure that they are being properly used and secured. The department may revoke a user's authorization if an authorized user does not lock the gate or fails to identify his lock.

(Added to NAC by Dep't of Transportation, eff. 1-6-95)

ROADSIDE PARKS AND SAFETY REST AREAS

NAC 408.595 Occupancy. Parking, camping or occupancy in a roadside park or safety rest area is limited to 18 hours in any 2-week period.

[Dep't of Transportation, Roadside Parks and Safety Areas Reg. No. 1, eff. 5-7-80]

NAC 408.600 Control of animals. When not confined in a vehicle, all animals in a roadside park or safety rest area must be on a leash, halter or other appropriate restraining device and confined to an area designated for animals.

[Dep't of Transportation, Roadside Parks and Safety Areas Reg. No. 8, eff. 5-7-80]

NAC 408.605 Fires. No fire is permitted in a roadside park or safety rest area outside fireplaces or grills in designated areas. Fires must be extinguished after use.

[Dep't of Transportation, Roadside Parks and Safety Areas Reg. No. 3, eff. 5-7-80]

NAC 408.610 Disposal of waste.

1. Littering is not permitted in a roadside park or safety rest area. Trash or garbage must be deposited in containers provided by the department of transportation. The disposal of waste in these containers is restricted to trash and garbage which is accumulated by persons traveling in vehicles. The disposal of garbage or trash from other sources is prohibited.

2. No waste water may be disposed of in any portion of a roadside park or safety rest area except in an area designated for such a disposal.

3. A sewer hose must be used when dumping any holding tank.

4. Commercial vehicles must not dump waste in disposal areas.

[Dep't of Transportation, Roadside Parks and Safety Areas Reg. No. 7, eff. 5-7-80]

NAC 408.615 Prohibited acts. The following acts are prohibited in a roadside park or safety rest area:

1. The parking of commercial vehicles for commercial reasons, such as unloading or changing cargo. Vehicles may be parked only in areas designated for parking.

2. Exhibiting or using any firearm or other weapon.

3. Loitering within or around any toilet facility.

4. Drunkenness.
 5. Any use of the electricity in a restroom to operate an appliance which is used in a home.
 6. Except in the case of emergency repairs to a towing vehicle, the detaching of a trailer from the towing vehicle.
- [Dep't of Transportation, Roadside Parks and Safety Areas Reg. Nos. 2, 4-6, 9 & 10, eff. 5-7-80]

INFORMATIONAL AND DIRECTIONAL SIGNS FOR TOURISTS

General Provisions

NAC 408.700 Definitions. As used in NAC 408.702 to 408.830, inclusive, unless the context otherwise requires, the words and terms defined in NAC 408.702 to 408.740, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.702 "Business sign" defined. "Business sign" means any separately affixed trade name mounted on a panel.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.704 "Department" defined. "Department" means the department of transportation.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.706 "Director" defined. "Director" means the director of the department.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.708 "District engineer" defined. "District engineer" means the supervisor or head of a district office of the department.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.710 "Exiting terminal" defined. "Exiting terminal" means any roadway by which traffic may leave the main traveled way of an expressway or freeway in order to reach the general system of roads.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.712 "Expressway" defined. "Expressway" means a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at major intersections.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.714 "Freeway" defined. "Freeway" means an expressway with full control of access.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.716 "Highway" defined. "Highway" means a public way for purposes of vehicular travel, including the entire area within the right of way.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.718 "Interchange" defined. "Interchange" means a system of interconnecting roadways, in conjunction with one or more grade separations, for the movement of traffic between two or more roadways on different levels.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.720 "Intersection" defined. "Intersection" means the general area where two or more roadways join or cross.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.722 "Main traveled way" defined. "Main traveled way" means that portion of a roadway used for the movement of traffic, but does not include a frontage road, entering and exiting terminals and areas for parking.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.724 "Panel" defined. "Panel" means a rectangular board or sheet which contains the legend "GAS," "FOOD," "LODGING" or "CAMPING," each of which may contain directional information, one or more business signs or any combination thereof. A panel is commonly referred to as a sign panel or sign assembly.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.726 "Qualified business" defined. "Qualified business" means a business furnishing gas, food, lodging or service for camping to the traveling public.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.728 "Responsible operator" defined. "Responsible operator" means a person who owns or manages a qualified business who has the authority to apply for the placement of a business sign.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.730 "Roadway" defined. "Roadway" means the portion of a highway, including shoulders, for vehicular use and, for a divided highway, is that portion provided for traffic moving in one direction.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.732 "Rural area" defined. "Rural area" means an area of the state whose population is 20,000 or less.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.734 "Trade name" defined. "Trade name" means a name, distinctive symbol, trademark or brand name used to identify a qualified business.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.736 "Traffic engineer" defined. "Traffic engineer" means the chief traffic engineer of the department.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.738 "Trailblazer" defined. "Trailblazer" means a small panel placed on a crossroad to assist the traveling public in locating the qualified business.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.740 "Visible" defined. "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.742 Applicability. Except as otherwise provided in NAC 408.774 to 408.794, inclusive, NAC 408.700 to 408.830, inclusive, apply to the interstate and the state highway system.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

Panels

NAC 408.744 Installation and location.

1. Panels must be installed primarily in rural areas where services to motorists are available, but if the department determines that the terrain or relocation of a business indicates a need for panels in an urban area in order to direct properly the traveling public, panels may be installed within that area.

2. Panels must be located so as to take advantage of natural terrain, to minimize the impact on the scenic environment and to avoid visual conflict with other signs along the roadway.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.746 Order of placement. The panels for each type of available service from qualified businesses must be placed on the main traveled way so that the traveling motorists, while proceeding in the direction of traffic, encounters the panels in the following order, starting from the panel farthest from the exiting terminal:

1. Camping;
2. Lodging;
3. Food; and
4. Gasoline.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.748 Contents. Except as otherwise provided in this section and NAC 408.794, a single panel for each type of service for camping, lodging, food or gasoline must be erected in advance of an interchange or intersection in each direction of traffic. For interchanges in remote rural areas, a combination of not more than two types of services may be placed on a single panel, if space is available. Any such combination must be approved by the traffic engineer.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

Business Signs: Type of Service and Qualifications of Service

NAC 408.750 Types of services for which business signs may be displayed on panel. The type of service for which a business sign may be displayed on a panel is limited to providing gasoline, food, lodging or space for camping. Each type of service must satisfy the applicable criteria set forth in NAC 408.752 to 408.758, inclusive, to qualify for a business sign.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.752 Qualifications of service: Selling gasoline. If the type of service is selling gasoline, it must:

1. Provide services for vehicles, including fuel, oil, repair of tires and water;
2. Have restrooms and drinking water;
3. Be in continuous operation for at least 12 hours per day for 7 days a week;
4. Provide telephone service; and
5. Be licensed, where required, as a service or facility for selling gasoline.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.754 Qualifications of service: Providing food. If the type of service is providing food, it must:

1. Be licensed, where required, as a service or facility where food is served;
2. Be in continuous operation for the daily serving of noon and evening meals for 7 days a week;
3. Provide telephone service; and
4. Be in the primary business of providing prepared meals.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.756 Qualifications of service: Providing lodging. If the type of service is providing lodging, it must:

1. Be licensed, where required, as a service or facility for lodging;
2. Have adequate sleeping accommodations; and
3. Provide telephone service.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.758 Qualifications of service: Providing space for camping. If the type of service is providing space for camping, it must:

1. Be licensed, where required, as a service or facility for camping;
2. Have adequate parking;

3. Have drinking water; and
4. Have modern sanitary facilities.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.760 Location of qualified business. Except as otherwise provided in NAC 408.800 a qualified business must be located within 1 mile of an interchange or intersection, measured by the distance from the center point of the interchange or intersection to the nearest point of convergence of the driveway of the business with a highway.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.762 Supplemental panels.

1. If a qualified business is not visible from any part of the exiting terminal, a supplemental panel may be placed on the exiting terminal at such location as will serve best the motoring public and will be compatible with traffic safety.

2. If a qualified business is visible from any part of the exiting terminal, it is not eligible for a supplemental panel unless the supplemental panel is necessary in order to diminish hazards to traffic or to minimize confusion because of the complexity of a particular interchange.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

Design and Contents of Panels, Business Signs and Trailblazers

NAC 408.764 Panels: Design of borders and size. A panel must have a blue background with a white border which is reflectorizing. The size of the panel must not exceed the minimum size necessary to accommodate the maximum number of allowable business signs using the specifications in NAC 408.766 to 408.792, inclusive. For matters not specified, the panel must comply with the department's manual on uniform traffic control devices.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.766 Design of business signs. A business sign must have a blue background with a white legend and a white border. The principal legend must be at least equal in height to the directional legend on the panel. If only a trade name is used on a business sign, the border

may be omitted. The business sign must be reproduced in the color and shape consistent with customary use. Any internal legend must be proportionately sized to the principal

legend on
the panel.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.768 Design of panels: Directional arrows and legends; restriction; spaces between business signs.

1. Directional arrows and directional legends used on a panel must reflectorize and must be white.
2. Any trade name resembling an official device for controlling traffic must not be placed on a panel.
3. The spaces between business signs on a panel must not exceed 8 inches in height and 12 inches in width.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.770 Required contents of panels and supplemental panels. Panels and supplemental panels must bear the legend "GAS," "FOOD," "LODGING" or "CAMPING" and one or more horizontal rows of business signs, with a directional arrow as appropriate.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.772 Trailblazers: Placement and lettering. A trailblazer may be installed at the intersection of state highways or at the intersection of a state highway and a county road or city street if the trailblazer can be placed on the state highway's right of way. The lettering on a trailblazer must conform to the requirements of the department's manual on uniform traffic control devices.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

Interstate Highway System and Freeways

NAC 408.774 Provisions applicable to interstate highway system and freeways. In addition to the other requirements in NAC 408.700 to 408.830, inclusive, the requirements in NAC 408.776 to 408.788, inclusive, apply to the interstate highway system and freeways.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.776 Location of panel. Each panel must be erected between the previous intersection or interchange and no less than 800 feet in advance of the exiting

terminal at the interchange or the intersection from which the services of a qualified business are available. There must be at least 800 feet between each panel.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.778 Restrictions on location of panel. A panel must not be erected at an interchange or intersection where the motorist cannot conveniently reenter the freeway and continue in the same direction of travel, at interchanges between a freeway and an expressway or at an interchange between freeways. If there is a business loop, the panel may be placed at the interchange or intersection closest to the qualified business. If the business is at a point halfway between an intersection or an interchange, the responsible operator may select the intersection or interchange for the placement of the business sign.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.780 Supplemental panels.

1. At an interchange with a single exit where qualified businesses are not visible from the exiting terminal, supplemental panels must be installed along the exiting terminal and may be provided along the crossroad. Supplemental panels must be duplicates of the panels located along the main traveled way but reduced in size. The supplemental panels must specify the distance to the business and have directional arrows instead of words. The minimum height for lettering on the supplemental panel is 4 inches and any legend on a business sign on the panel must be proportionately sized.

2. Supplemental panels may also be used on exiting terminals and crossroads at interchanges with double exits.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.782 Contents of panels; number of business signs.

1. At an interchange with a single exit, the type of service followed by the number of the exit must be displayed on a panel in a single line above the business signs. At an interchange which is not numbered, the directional legend "NEXT RIGHT" or "NEXT LEFT" must be substituted for the number of the exit.

2. At an interchange with double exits, panels must consist of two sections, one for each exit. The top section must display the business sign for the first exit and the lower section must display the business sign for the second exit. The type of service followed by the number of the exit must be displayed on the panel in a single line above the business signs in each section. At an interchange which is not numbered, the directional legends "NEXT RIGHT" or "NEXT LEFT" or "SECOND RIGHT" or "SECOND LEFT" must be substituted for the number of the exit. If a panel for a type of service is to be placed at only one exit, one section of the sign panel may be omitted or a panel used for an interchange with a single exit may be used.

3. A panel for gasoline must have no more than six business signs. Panels for food, lodging or camping must each have no more than four business signs.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.784 Contents of panel in rural area. At an interchange in a remote rural area where not more than two qualified businesses are available for each of two or more types of service, business signs for no more than two types of services may be displayed in combination on the same panel. The legend "CAMPING," "LODGING," "FOOD" or "GAS," must be displayed on the panel above its respective business sign on the panel. The number of the exit must be displayed above the legend depicting the type of service, except that for an interchange which is not numbered, the directional legend "NEXT RIGHT" or "NEXT LEFT" must be substituted for the number of the exit.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.786 Size of business signs.

1. Each business sign, including the border, displayed on a panel for gasoline must be contained within a 48-inch-wide and a 36-inch-high rectangular area.

2. Each business sign, including the border, on a panel for food, lodging or camping must be contained within a 60-inch-wide and a 36-inch-high rectangular area.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.788 Lettering on panels. The directional legend on a panel and all letters used to depict the type of service must be in 10-inch capital letters. Numbers must be 10 inches in height.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

Expressways

NAC 408.790 Provisions applicable to expressways. Except as otherwise provided in NAC 408.792 and 408.794 the provisions of NAC 408.778, 408.780, 408.782, 408.786 and 408.788 apply to panels, supplemental panels and business signs located on an expressway.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.792 Placement of panels.

1. Each panel must be erected between intersections and no less than 300 feet in advance of the intersection from which the service of a qualified business is available. The spacing between panels and between panels and other devices for controlling traffic

must be determined on the basis of an engineering study by the department. Business signs must not be displayed for any business that is visible from a point, 300 feet from the intersection, on the main traveled way.

2. Supplemental sign panels may be provided on the crossroads.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.794 Business signs on panels. A maximum of four business signs for each type of service may be displayed along each approach to an intersection. No more than four business signs may be displayed on each panel. A maximum of two business signs for each of two different types of services may be combined on the same panel, and the legend for each type of service must be displayed above its business sign along with an appropriate directional legend such as "NEXT RIGHT" or "NEXT LEFT" or a directional arrow.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

Application for Placing Business Sign on Panel

NAC 408.796 Procedure for accepting applications. If the department desires to place business signs on a new panel, the department will do the following:

1. Issue a press release and publish a notice in the local and regional newspaper where the panel is to be located stating that the department will accept applications from the responsible operators of businesses for the placement of business signs on the panel. The publication of the notice will run at least once a week for 4 successive weeks. The department, as a convenience, may provide copies of the press release to the local governmental entity, chamber of commerce or other related entity in the area where the panel is to be located.

2. Accept applications for a period of 30 days after the last day of publication of the notice.

3. If the number of applications received within the 30-day period exceeds the maximum number of available spaces for business signs on any single panel, base the order of ranking on:

- (a) Random drawing for each interchange or intersection; or

- (b) The date and time in which the application is received by the department, if the traffic engineer determines that a random drawing is impractical.

4. Five years after the installation of each business sign on the panel, the department will repeat the steps specified in this section for each business sign. The

responsible operator of a business who wishes to keep his business sign on a panel for more than 5 years must reapply.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.798 Application by responsible owner: Contents; assurances.

1. The responsible operator of a business must submit an application on a form specified by the department and pay the appropriate fees for the first year. The applicant shall state the necessary number of business signs that will be affixed to the panel or, where applicable, the supplemental panel or trailblazer.

2. Each applicant shall provide written assurance at the time of application that the applicant will comply with all applicable laws respecting public accommodations and providing service without regard to race, religion, color, gender or national origin.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.800 Acceptance of applications of businesses located more than 1 mile from interchange or intersection.

1. If there are not enough businesses serving motorists located within 1 mile from the interchange or intersection submitting applications for the placement of a business sign on a panel, applications may be submitted to the department from other businesses which are located up to 3 miles from the interchange or intersection being considered.

2. If there are still not enough businesses submitting an application in the first 3 miles, applications from other businesses which are located more than 3 miles and up to 6 miles from the interchange or intersection being considered may be submitted to the department. The traffic engineer may consider the application upon showing by the applicant that the business can be easily located and additional panels, other than a supplemental panel or trailblazer, would not be necessary to direct the traveling public to the business.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.802 Approval of application by traffic engineer. The traffic engineer shall approve an original application or application for renewal if he determines that the applicant's business complies with the criteria for the placement of a business sign on a panel.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.804 Denial of application by traffic engineer. An application of a business which meets all of the requirements for eligibility for placement of a business sign may be denied by the traffic engineer if he determines that adequate direction to the

business cannot be given by a reasonable number of allowable supplemental panels or trailblazers.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.806 Duration of approval; renewal. Any approval of a new application or an application for renewal entitles the applicant to the placement or continuance of its business sign on a particular panel for 12 months after date of installation of the business sign on the panel. If the responsible operator wants to continue the placement of a business sign on a panel, he must submit an application for renewal 30 days before the expiration of the 12-month period. Eligibility of a qualified business for continued placement of its business sign on a panel must be reviewed by the traffic engineer before granting or denying the application for renewal using the same criteria as for the initial application. Prior notice of the deadline for renewal may be provided by the department to the responsible owner.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.808 Notification of applicant and district engineer if application is approved.

1. The department will notify the successful applicant of the approval of his application so that he has adequate time to furnish the department with the necessary number of business signs.

2. Upon approval of an application, the traffic engineer shall notify the district engineer and provide him with the information necessary for the installation of the business signs on the panel and, if necessary, the erection of a supplemental panel or trailblazer.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.810 Cancellation of application. The traffic engineer may cancel the application if the applicant has not timely provided the department with the necessary number of business signs or if the business signs do not comply with the requirements for placement on a panel.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.812 Supplemental sign for business providing diesel fuel.

1. A supplemental sign with the legend "DIESEL" may be placed on a panel underneath the legend "GAS" if the qualified business has diesel fuel available during its hours of operation. In order to have a sign for diesel fuel installed, the qualified business must submit an application, along with the appropriate fees, on a form approved by the department.

2. The sign must be 36 inches wide and 7 inches high. The color must be blue, with white letters that are 5 inches high. The sign for diesel fuel must be furnished and installed by the department, and the department must maintain and replace the sign when it becomes damaged or worn.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

Removal of Business Sign From Panel

NAC 408.814 Circumstances requiring removal. The business sign of a qualified business must be removed from a panel and may be replaced by the business sign of another qualified applicant if the qualified business:

1. Does not substantially comply with the requirements of NAC 408.750 to 408.758, inclusive;
2. Closes its business for more than 7 consecutive days or for more than a total of 10 days during any 12-month period, unless the closure was beyond the control of the responsible operator or was compelled by justifiable circumstances;
3. Fails to comply with subsection 2 of NAC 408.798, unless the responsible operator promptly assures the traffic engineer that the infraction will not recur; or
4. Allows the business sign to become obsolete.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.816 Temporary removal. If, as a result of fire, accident or similar occurrence, a qualified business becomes inoperable for a period of time which exceeds 7 days but is not more than 90 days, its business sign must be temporarily removed from all panels. The business is not required to reapply before the normal time for application for renewal. The traffic engineer may grant an extension for good cause, as shown by the responsible operator, but the failure of the responsible operator to proceed with the necessary repair of the qualified business as rapidly as possible may jeopardize the continued placement of the business sign on a panel and the traffic engineer may require the responsible operator to submit a new application.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.818 Removal for noncompliance with regulations or at request of responsible operator.

1. If the responsible operator receives two notices of noncompliance with NAC 408.700 to 408.828, inclusive, and does not comply, the business sign must be removed from the panel, supplemental panel or trailblazer.

2. A business sign may also be removed if the responsible operator requests the:

(a) Temporary removal because of the temporary or seasonal nature of his particular business; or

(b) Removal of the business sign from the panel, supplemental panel or trailblazer.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.820 Loss of order of priority of qualified business. Upon the removal of a business sign, the qualified business loses its order of priority in the ranking for placement of a business sign unless:

1. It corrects the deficiency before the acceptance of another applicant by the traffic engineer; or

2. The removal of the business sign is temporary pursuant to NAC 408.816.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

Miscellaneous Provisions

NAC 408.822 Inspection by department. The department will inspect the panels, supplemental panels and trailblazers for business signs that are not securely attached.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.824 Duties of responsible owner. The responsible operator shall:

1. Furnish the necessary number of business signs for placement and replacement on panels, supplemental panels and trailblazers;

2. Keep the business signs current; and

3. Provide additional business signs to replace obsolete business signs and business signs damaged or lost because of vandalism or theft.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.826 Fees.

1. An applicant shall submit a nonrefundable fee established by the department with his application for a business sign or application for renewal.

2. The department will establish and assess the following fees:

(a) An annual fee for rental for placement of a business sign on a panel, supplemental panel or a trailblazer, payable within 20 days after notification to the applicant of the approval of his application or renewal.

(b) If an applicant requests and qualifies for a sign for diesel fuel, an additional annual fee for rental for each such sign.

(c) A fee for installation of each business sign and sign for diesel fuel, payable within 20 days after notification to the applicant of the approval of his application.

(d) After the department removes, even temporarily, a business sign from a panel, supplemental panel or trailblazer, a fee against the responsible operator for removal of each business sign.

(e) If a business sign is reinstalled after its removal, a fee for the reinstallation of each business sign.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.828 Refund of fee.

1. If a business sign has been removed from a panel, supplemental panel or trailblazer, the unused portion of the prepaid annual fee for rental must be refunded to the responsible operator, unless the business sign is temporarily removed under the provisions of subsection 2 of NAC 408.818.

2. If a traffic engineer cancels an application pursuant to NAC 408.810, the department will refund the unused portion of the prepaid annual fee for rental to the responsible operator.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)

NAC 408.830 Appeal of decision of traffic engineer.

1. Any person aggrieved by a decision of the traffic engineer may appeal that decision in writing to a hearings officer of the department appointed by the director. The request for an appeal must be made within 15 working days after the decision is rendered.

2. Within 30 working days after the hearings officer receives the request for appeal, a prehearing conference must be held, involving the person requesting the appeal, the district engineer, the traffic engineer and one other officer of the department designated by the director.

3. A hearing must be held before the hearings officer 45 days after the hearings officer receives the request for appeal if the matter has not been resolved through a prehearing conference.

(Added to NAC by Dep't of Transportation, eff. 9-16-86)